

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ESAW LAMPKIN, #1263639 §
VS. § CIVIL ACTION NO. 6:23cv401
DANNAL COX, ET AL. §

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Esaw Lampkin, a former inmate confined within the Henderson County Jail, proceeding *pro se* and seeking *in forma pauperis* status, filed this civil rights lawsuit. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On October 5, 2023, Judge Love issued a Report recommending that Plaintiff's motion for leave to proceed *in forma pauperis* be denied, and that the lawsuit be dismissed with prejudice for the purposes of proceeding *in forma pauperis*. Docket No. 9. A copy of this Report was sent to Plaintiff at his last-known address. The docket reflects that the mail was returned as "unclaimed." Docket No. 10. To date, Plaintiff has neither filed objections nor an updated notice of a change of address.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten days to fourteen days).

Here, Plaintiff has not filed objections. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 9) as the findings of this Court. Therefore, it is **ORDERED** that Plaintiff's motion for leave to proceed *in forma pauperis* (Docket No. 7) is **DENIED**. It is also **ORDERED** that Plaintiff's civil rights action is **DISMISSED** with prejudice for the purposes of proceeding *in forma pauperis*, but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status and payment of the full filing fee.

So **ORDERED** and **SIGNED** this 1st day of November, 2023.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE